

AMENDED IN ASSEMBLY APRIL 20, 1999

AMENDED IN ASSEMBLY APRIL 15, 1999

CALIFORNIA LEGISLATURE—1999–2000 REGULAR SESSION

ASSEMBLY BILL

No. 1548

**Introduced by Assembly Member Cardoza
(Coauthor: Assembly Members Florez, Reyes, Thomson,
and Wiggins)**

February 26, 1999

An act to amend Sections 110005, 110050, 110475, 110480, ~~112040, 112115, and 113355~~ *and 112040* of, to amend and renumber Sections 110780 and 110785 of, to add Sections 109947, 110466, 110467, 110468, 110471, 110472, 110473, 110474, 110482, and 110661 to, and to repeal and add Sections 110460 and 110470 of the Health and Safety Code, relating to environmental health.

LEGISLATIVE COUNSEL'S DIGEST

AB 1548, as amended, Cardoza. Environmental health: food.

Existing law, the Sherman Food, Drug, and Cosmetic Law, contains various provisions regarding the packaging, labeling, and advertising of food, drugs, and cosmetics.

Existing law requires every person upon first engaging in the manufacturing, packing, or holding of processed food in this state to immediately register with the State Department of Health Services and to pay a fee, for deposit into the Food Safety Fund, to be used by the department, upon

appropriation by the Legislature, for the purposes of providing funds necessary to carry out and implement the inspection provisions of the law. Existing law also authorizes local health departments to conduct inspections of certain food processing establishments.

This bill would revise and recast these provisions. It would, among other things, provide for the inspection and reinspection of food processing facilities, as defined, and would require the department, prior to issuing a new registration to any food processing facility, to review construction plans for any new construction at the food processing facility and to charge a fee for this review that would be deposited in the Food Safety Fund. The bill would also revise the fees charged for new and renewal registrations, and would prohibit local health departments from conducting inspections of food processing facilities or certain food processing establishments or collecting fees from these facilities or establishments.

By creating new crimes and revising the definition of existing crimes, this bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 109947 is added to the Health
2 and Safety Code, to read:

3 109947. "Food processing facility" means any facility
4 operated for the purposes of manufacturing, packaging,
5 or holding processed food. Food processing facility does
6 not include a food facility as defined in Section 113785.

7 SEC. 2. Section 110005 of the Health and Safety Code
8 is amended to read:



1 110005. “Potentially hazardous food” means any food
2 capable of supporting growth of infectious or toxigenic
3 micro-organisms when held at temperatures above 45
4 degrees Fahrenheit.

5 SEC. 3. Section 110050 of the Health and Safety Code
6 is amended to read:

7 110050. The Food Safety Fund is hereby created as a
8 special fund in the State Treasury. All moneys collected
9 by the department under Sections 110466, 110468, 110470,
10 and 110485 and under Article 7 (commencing with
11 Section 110810) of Chapter 5 shall be deposited in the
12 fund, for use by the department, upon appropriation by
13 the Legislature, for the purposes of providing funds
14 necessary to carry out and implement the inspection
15 provisions of this part relating to food, the provisions
16 relating to education and training in the prevention of
17 microbial contamination pursuant to Section 110485, and
18 the registration provisions of Article 7 (commencing with
19 Section 110810) of Chapter 5.

20 SEC. 4. Section 110460 of the Health and Safety Code
21 is repealed.

22 SEC. 5. Section 110460 is added to the Health and
23 Safety Code, to read:

24 110460. No person shall engage in the manufacture,
25 packing, or holding of any processed food in this ~~sate~~ state
26 unless the person has a valid registration from the
27 department. The registration shall be valid for one
28 calendar year from the date of issue, unless it is revoked.
29 The registration shall not be transferable.

30 SEC. 6. Section 110780 of the Health and Safety Code
31 is amended and renumbered to read:

32 110461. It is unlawful for any person to manufacture,
33 pack, or hold processed food in this state unless in a food
34 processing facility duly registered, as provided in this
35 part.

36 SEC. 7. Section 110785 of the Health and Safety Code
37 is amended and renumbered to read:

38 110462. It is unlawful for any person to willfully make
39 a false statement or representation, or knowingly fail to
40 disclose a fact required to be disclosed in the application

1 for registration or renewal of registration, as provided in
2 this article.

3 SEC. 8. Section 110466 is added to the Health and
4 Safety Code, to read:

5 110466. (a) Commencing January 1, 2000, the
6 department shall use the resources provided by the
7 registration fees assessed by this article to inspect new
8 and registered food processing facilities to determine
9 compliance with this part. The department shall target
10 the inspections and adjust their scope, depth, and
11 frequency based on the department's statewide
12 assessment of public health risk potential. In assessing
13 public health risk potential, the department shall
14 consider, at a minimum, the potential and actual health
15 risks associated with processed foods manufactured,
16 packaged, or held in this state, and the food safety
17 practices and compliance histories of persons who
18 manufacture, package, or hold processed foods in this
19 state.

20 (b) Commencing January 1, 2001, the department
21 shall conduct, under this chapter, an annual inspection of
22 each registered food processing facility and each new
23 food processing facility.

24 (c) The department may perform one or more
25 reinspections of each new and registered food processing
26 facility as necessary to prevent repeated or continuing
27 violations of this part and for the purposes of approving
28 the issuance of a new registration. The department shall
29 not charge a separate fee for a first reinspection. The
30 department shall charge a fee of seventy-five dollars
31 (\$75) per hour to cover the costs of performing the
32 second and subsequent reinspections of the same food
33 processing facility.

34 SEC. 9. Section 110467 is added to the Health and
35 Safety Code, to read:

36 110467. Any violation of any provision of this part or
37 any regulation adopted pursuant to this part shall be
38 grounds for denying a registration or for suspending or
39 revoking a registration. Proceedings for the denial,
40 suspension, or revocation of a registration shall be

conducted in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code, and the department shall have all the powers granted in that chapter.

SEC. 10. Section 110468 is added to the Health and Safety Code, to read:

110468. (a) Prior to issuing a new registration to any food processing facility pursuant to Section 110460, the department shall review construction plans for any new construction at the food processing facility to assure conformance with ~~subparagraphs (B) and (C) of~~ Subpart B (commencing with Section 110.20) and Subpart C (commencing with Section 110.40) of Part 110 of Title 21 of the Code of Federal Regulations, and shall inspect the food processing facility.

(b) The fees for review of construction plans shall be as follows:

	Holding Food Only Fee	Manufacturing or Packing Food Fee
0–5,000 sq ft	\$150	\$200
5,001–10,000 sq ft	300	350
Over 10,000 sq ft	450	500

SEC. 11. Section 110470 of the Health and Safety Code is repealed.

SEC. 12. Section 110470 is added to the Health and Safety Code, to read:

110470. A registration application provided by the department shall be completed annually and accompanied by a nonreturnable registration fee.

The fee for a new or renewal registration shall be as follows:

Holding Food Only:			
	Fee through 12/31/99	Fee commencing 01/01/2000	Fee commencing 01/01/01

1			through	and
2			12/31/2000	ongoing
3				
4	Size of Facility:			
5				
6	0–5,000 sq ft	\$257.85	\$258	\$258
7	5,001–10,000 sq ft	257.85	325	400
8	Over 10,000 sq ft	386.77	485	600
9				
10	Manufacturing or			
11	Packing Food:			
12		Fee	Fee	Fee
13		through	commencing	commencing
14		12/31/99	01/01/2000	01/01/01
15			through	and
16			12/31/2000	ongoing
17	Number of	Size of		
18	Employees	Facility		
19				
20	0–2		\$257.85	\$258
21	3–5	0–5,000 sq ft	257.85	400
22	6–20	0–5,000 sq ft	386.77	600
23	More			
24	than 20	0–5,000 sq ft	515.70	900
25	3–5	Over		
26		5,000 sq ft	257.85	600
27	6–20	Over		
28		5,000 sq ft	515.70	900
29	21–50	Over		
30		5,000 sq ft	644.52	1,250
31	51–100	Over		
32		5,000 sq ft	644.52	1,350
33	101–200	Over		
34		5,000 sq ft	644.52	1,450
35	201 or	Over		
36	more	5,000 sq ft	644.52	1,550

37
38 A penalty of 1 percent per month shall be added to any
39 registration fee not paid when due. The fee amount shall
40 be adjusted annually pursuant to Section 100425.

SEC. 13. Section 110471 is added to the Health and Safety Code, to read:

110471. Except for subdivisions (c) and (j) of Section 110480 and Section 110482, after January 1, 2001, no local health department of a city, county, city and county, or local health district, shall conduct ~~reinspections~~ *inspections* of food processing facilities or food processing establishments or collect fees from these facilities or establishments pursuant to this part or ~~Part 6~~ *(commencing with Section 111940) Article 1 (commencing with Section 111950) and Article 2 (commencing with Section 112060) of Chapter 4 of Part 6.*

SEC. 14. Section 110472 is added to the Health and Safety Code, to read:

110472. The department, in consultation with the California Conference of Directors of Environmental Health (CCDEH) and representatives of the processed food industry, shall develop, implement, and evaluate the processed food registration program.

SEC. 15. Section 110473 is added to the Health and Safety Code, to read:

110473. Notwithstanding the requirements of Section 110470, any person who is required to be registered under this chapter and is operating the processed food facility exclusively for charitable purposes, and meets the requirements of Section 214 of the Revenue and Taxation Code, shall not be required to submit any fees required by Section 110470.

SEC. 16. Section 110474 is added to the Health and Safety Code, to read:

110474. Nothing in this chapter shall relieve a person who has a valid registration to manufacture, pack, or hold processed food issued by the department from any other requirements for licensure, registration, or certification under Article 12 (commencing with Section 111070) or Part 6 (commencing with Section 111940). The registration fee due under this article from a person who holds one or more licenses, registrations, or certificates pursuant to Article 12 (commencing with Section 111070)

1 or Part 6 (commencing with Section 111940) shall be the
2 fee for the single highest cost license, registration, or
3 certificate only. Cannery inspection fees collected
4 pursuant to Section 112730 and organic processed food
5 registration fees collected pursuant to Section 110875
6 shall be in addition to any registration fees that may be
7 collected under this article.

8 SEC. 17. Section 110475 of the Health and Safety Code
9 is amended to read:

10 110475. Any person registered pursuant to this article
11 shall immediately notify the department of any change in
12 the information reported on the registration application.

13 SEC. 18. Section 110480 of the Health and Safety Code
14 is amended to read:

15 110480. The registration provisions of this article shall
16 not apply to any person whose manufacturing, packaging,
17 or holding of processed food is limited solely to
18 temporarily holding foods for up to seven days for further
19 transport if the foods are not potentially hazardous foods,
20 or to any person whose manufacturing, packaging, or
21 holding of processed food is limited solely to activities
22 authorized by any of the following:

23 (a) A valid bottled water or water vending machine
24 license issued pursuant to Article 12 (commencing with
25 Section 111070).

26 (b) A valid pet food license issued pursuant to Chapter
27 10 (commencing with Section 113025) of Part 6.

28 (c) A valid permit issued pursuant to Chapter 4
29 (commencing with Section 113700) of Part 7 to a food
30 facility including a food facility that manufactures, packs,
31 or holds processed food for sale at wholesale, provided the
32 food facility that manufactures, packs, or holds processed
33 food for sale at wholesale does not meet any of the
34 following conditions:

35 (1) Has gross annual sales of processed foods of more
36 than fifty thousand dollars (\$50,000).

37 (2) Sells processed foods outside the jurisdiction of the
38 local health ~~departments~~ department.

39 (3) Sells processed foods that require labeling
40 pursuant to this part.

(4) Sells processed foods that are potentially hazardous foods.

(5) Salvages processed foods for sale other than at the retail food facility.

(d) A valid cold storage license issued pursuant to Chapter 6 (commencing with Section 112350) of Part 6.

(e) A valid cannery license issued pursuant to Chapter 8 (commencing with Section 112650) of Part 6.

(f) A valid shellfish certificate issued pursuant to Chapter 5 (commencing with Section 112150) of Part 6.

(g) A valid frozen food locker plant license issued pursuant to Chapter 7 (commencing with Section 112500) of Part 6.

(h) A valid winegrower's license or wine blender's license pursuant to Division 9 (commencing with Section 23000) of the Business and Professions Code.

(i) A valid milk products plant, margarine, imitation ice cream, imitation ice milk, or a products resembling milk products plant license, issued pursuant to Division 15 (commencing with Section 32501) of the Food and Agricultural Code.

(j) A valid permit issued by a local health department to operate as a food warehouse, provided that all of the following conditions are met:

(1) The warehouse does not manufacture or pack processed food.

(2) The warehouse holds only food that is not potentially hazardous food.

(3) The warehouse is not operated as an integral part of a food processing facility registration pursuant to this article.

(4) The warehouse facilities are located entirely within the area under the jurisdiction of the local health department.

(5) The warehouse does not salvage food.

SEC. 19. Section 110482 is added to the Health and Safety Code, to read:

110482. Notwithstanding Section 110471, a local health department may inspect a warehouse described in subdivision (j) of Section 110480 for compliance with

1 Chapter 4 (commencing with Section 111950), and
2 collect fees for these inspections.

3 SEC. 20. Section 110661 is added to the Health and
4 Safety Code, to read:

5 110661. Any food is misbranded if it is manufactured,
6 packed, or held in this state in a food processing facility
7 not duly registered as provided in this part.

8 SEC. 21. Section 112040 of the Health and Safety Code
9 is amended to read:

10 112040. (a) The department, its inspectors and
11 agents, and all local health officers and inspectors may at
12 all times enter any building, room, basement, cellar, or
13 other place occupied or used, or suspected of being
14 occupied or used, for the production, preparation,
15 manufacture, storage, sale, or distribution of food, and
16 inspect the premises and all utensils, implements,
17 receptacles, fixtures, furniture, and machinery used.

18 (b) Notwithstanding subdivision (a), commencing
19 January 1, 2001, no local health officer or inspector may
20 exercise the authority granted in subdivision (a).

21 ~~SEC. 22. Section 112115 of the Health and Safety Code~~
22 ~~is amended to read:~~

23 ~~112115. (a) This article, with the exception of any~~
24 ~~licensing provisions, may be enforced by any local~~
25 ~~enforcement division, which shall be construed to mean~~
26 ~~the local health department, headed by the duly~~
27 ~~appointed, qualified and acting health officer of any~~
28 ~~county, city or city and county. The territory may include~~
29 ~~one or more counties, cities, or cities and counties.~~

30 ~~(b) Notwithstanding subdivision (a), commencing~~
31 ~~January 1, 2001, no local enforcement division may~~
32 ~~exercise the authority granted in subdivision (a) with~~
33 ~~respect to inspections.~~

34 ~~SEC. 23. Section 113355 of the Health and Safety Code~~
35 ~~is amended to read:~~

36 ~~113355. (a) The primary responsibility for~~
37 ~~enforcement of this article shall be vested in the local~~
38 ~~health officers; county agricultural commissioners may~~
39 ~~participate in enforcement. The State Departments of~~

~~Health Services, Industrial Relations, and Food and Agriculture may also enforce this article.~~

~~(b) Notwithstanding subdivision (a), commencing January 1, 2001, authority to perform inspections pursuant to this article shall be vested in the department.~~

~~(c) Any agency enforcing this article shall report any violation to all field offices of the Employment Development Department located in the county where the violation occurs. The report shall identify the employer responsible for the violation, the nature of the violation, and the location of the food crop growing and harvesting operation where the violation occurs. The Employment Development Department shall not refer persons for employment to any employer or food crop growing and harvesting operation identified in the report until the agency reporting the violation certifies that the violation has been corrected.~~

~~SEC. 24.—~~

~~SEC. 22. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.~~

~~CORRECTIONS~~

~~Text — Pages 5 and 6.~~